

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1209

Introduced by Kruse, 13; Burling, 33; Jensen, 20; Johnson, 37;
Kopplin, 3; Kremer, 34; Wehrbein, 2

Read first time January 18, 2006

Committee: Revenue

A BILL

1 FOR AN ACT relating to alcohol; to amend sections 53-160,
2 53-161, 53-162, 53-164.01, 53-187, 53-199, and 81-1806,
3 Reissue Revised Statutes of Nebraska; to change
4 provisions relating to alcohol taxation; to adopt the
5 Alcohol-Related Crash Reparations Act; to provide for
6 payments to victims of alcohol-related crashes; to create
7 a fund; to harmonize provisions; to provide an operative
8 date; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-160, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 53-160 (1) For the purpose of raising revenue, a tax
4 is imposed upon the privilege of engaging in business as a
5 manufacturer or a wholesaler at a rate of ~~thirty-one~~ two dollars
6 and twenty-six cents per gallon on all beer; ~~ninety-five~~ six
7 dollars and ninety-four cents per gallon for wine, except for wines
8 produced in farm wineries; ~~six~~ forty-four cents per gallon for
9 wine produced in farm wineries; and ~~three dollars and seventy-five~~
10 twenty-seven dollars and thirty-eight cents per gallon on alcohol
11 and spirits manufactured and sold by such manufacturer or shipped
12 for sale in this state by such wholesaler in the course of such
13 business. The gallonage tax imposed by this subsection shall be
14 imposed only on alcoholic liquor upon which a federal excise tax is
15 imposed.

16 (2) Manufacturers or wholesalers of alcoholic liquor
17 shall be exempt from the payment of the gallonage tax on such
18 alcoholic liquor upon satisfactory proof, including bills of lading
19 furnished to the commission by affidavit or otherwise as the
20 commission may require, that such alcoholic liquor was manufactured
21 in this state but shipped out of the state for sale and consumption
22 outside this state.

23 (3) Dry wines or fortified wines manufactured or shipped
24 into this state solely and exclusively for sacramental purposes and
25 uses shall not be subject to the gallonage tax.

1 (4) The gallonage tax shall not be imposed upon any
2 alcoholic liquor, whether manufactured in or shipped into this
3 state, when sold to a licensed nonbeverage user for use in
4 the manufacture of any of the following when such products are
5 unfit for beverage purposes: Patent and proprietary medicines and
6 medicinal, antiseptic, and toilet preparations; flavoring extracts,
7 syrups, food products, and confections or candy; scientific,
8 industrial, and chemical products, except denatured alcohol; or
9 products for scientific, chemical, experimental, or mechanical
10 purposes.

11 (5) The gallonage tax shall not be imposed upon the
12 privilege of engaging in any business in interstate commerce or
13 otherwise, which business may not, under the Constitution and
14 statutes of the United States, be made the subject of taxation by
15 this state.

16 (6) The gallonage tax shall be in addition to all other
17 occupation or privilege taxes imposed by this state or by any
18 municipal corporation or political subdivision thereof.

19 (7) The commission shall collect the gallonage tax and
20 shall account for and remit to the State Treasurer at least once
21 each week all money collected pursuant to this section. If any
22 alcoholic liquor manufactured in or shipped into this state is
23 sold to a licensed manufacturer or wholesaler of this state to be
24 used solely as an ingredient in the manufacture of any beverage
25 for human consumption, the tax imposed upon such manufacturer or

1 wholesaler shall be reduced by the amount of the taxes which have
2 been paid as to such alcoholic liquor so used under the Nebraska
3 Liquor Control Act. The net proceeds of all revenue arising under
4 this section shall be credited to the General Fund, except that
5 an amount equal to the tax imposed upon the privilege of engaging
6 in business as a manufacturer or a wholesaler at a rate of
7 one dollar and ninety-five cents per gallon on all beer; five
8 dollars and ninety-nine cents per gallon for wine, except for wines
9 produced in farm wineries; thirty-eight cents per gallon for wine
10 produced in farm wineries; and twenty-three dollars and six-three
11 cents per gallon on alcohol and spirits manufactured and sold
12 by such manufacturer or shipped for sale in this state by such
13 wholesaler in the course of such business shall be credited to the
14 Alcohol-Related Crash Fund.

15 Sec. 2. Section 53-161, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 53-161 The commission shall allow credit to any
18 wholesaler for tax paid under subsection (1) of section 53-160 ~~(1)~~
19 for (1) beer shipped out of this state for sale and consumption
20 outside of the state or (2) ~~for~~ beer returned to the manufacturer
21 for credit, substitution, or replacement, and ~~such credit shall~~
22 ~~be allowed~~ whether such beer is a part of the original inventory
23 of such wholesaler or returned to such wholesaler by a licensee
24 authorized to purchase beer from a wholesaler.

25 Sec. 3. Section 53-162, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 53-162 For the purpose of raising revenue, a tax is
3 imposed upon persons holding a shipping license issued pursuant to
4 subsection (4) of section 53-123.15 who ship alcoholic liquor to
5 individuals pursuant to section 53-192 and for which the required
6 taxes in the state of purchase or this state have not been paid.
7 The tax, if due, shall be paid by the holder of the shipping
8 license issued pursuant to subsection (4) of section 53-123.15.
9 The amount of the tax shall be imposed as provided in section
10 53-160. The tax shall be collected by the commission, except that
11 the tax shall not be due until December 31 of the year in which
12 the purchase was made. The tax shall be delinquent if unpaid within
13 twenty-five days after December 31. The revenue from the tax shall
14 be credited to the General Fund and the Alcohol-Related Crash
15 Fund as provided in section 53-160. The commission shall adopt and
16 promulgate rules and regulations to carry out this section.

17 Sec. 4. Section 53-164.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 53-164.01 Payment of the tax provided for in subsection
20 (1) of section 53-160 on alcoholic liquor shall be paid by the
21 manufacturer or wholesaler as follows:

22 (1)(a) All manufacturers or wholesalers, except farm
23 winery producers, whether inside or outside this state shall, on
24 or before the twenty-fifth day of each calendar month following
25 the month in which shipments were made, submit a report under

1 oath or affirmation to the commission upon forms furnished by
2 the commission showing the total amount of alcoholic liquor in
3 gallons or fractional parts thereof shipped by such manufacturer
4 or wholesaler, whether inside or outside this state, during the
5 preceding calendar month;

6 (b) All beer wholesalers shall, on or before the
7 twenty-fifth day of each calendar month following the month
8 in which shipments were made, submit a report under oath or
9 affirmation to the commission upon forms furnished by the
10 commission showing the total amount of beer in gallons or
11 fractional parts thereof shipped by all manufacturers, whether
12 inside or outside this state, during the preceding calendar month
13 to such wholesaler;

14 (c) Farm winery producers shall, on or before the
15 twenty-fifth day of each calendar month following the month in
16 which wine was packaged or bottled for sale, submit a report
17 under oath or affirmation to the commission upon forms furnished
18 by the commission showing the total amount of wine in gallons
19 or fractional parts thereof packaged or bottled by such producer
20 during the preceding calendar month;

21 (d) A craft brewery shall, on or before the twenty-fifth
22 day of each calendar month following the month in which the beer
23 was produced for sale, submit a report under oath or affirmation
24 to the commission on forms furnished by the commission showing
25 the total amount of beer in gallons or fractional parts thereof

1 produced for sale by the craft brewery during the preceding
2 calendar month; and

3 (e) Reports submitted pursuant to subdivision (a), (b),
4 or (c) of this subdivision shall also contain a statement of
5 the total amount of alcoholic liquor, except beer, in gallons or
6 fractional parts thereof shipped to licensed retailers inside this
7 state and such other information as the commission may require;

8 (2) The wholesaler or farm winery producer shall at the
9 time of the filing of the report pay to the commission the tax
10 due on alcoholic liquor, except beer, shipped to licensed retailers
11 inside this state at the rate fixed in accordance with section
12 53-160. The tax due on beer shall be paid by the wholesaler on beer
13 shipped from all manufacturers;

14 (3) The tax imposed pursuant to section 53-160 shall be
15 due on the date the report is due less a discount of one percent
16 of the tax on alcoholic liquor for submitting the report and paying
17 the tax in a timely manner. The discount shall be deducted from the
18 payment of the tax before remittance to the commission and shall be
19 shown in the report to the commission as required in this section.
20 If the tax is not paid within the time provided in this section,
21 the discount shall not be allowed and shall not be deducted from
22 the tax;

23 (4) If the report is not submitted by the twenty-fifth
24 day of the calendar month or if the tax is not paid to the
25 commission by the twenty-fifth day of the calendar month, the

1 following penalties shall be assessed on the amount of the tax:
2 One to five days late, three percent; six to ten days late, six
3 percent; and over ten days late, ten percent. In addition, interest
4 on the tax shall be collected at the rate of one percent per month,
5 or fraction of a month, from the date the tax became due until
6 paid;

7 (5) No tax shall be levied or collected on alcoholic
8 liquor manufactured inside this state and shipped or transported
9 outside this state for sale and consumption outside this state;

10 (6) In order to insure the payment of all state taxes
11 on alcoholic liquor, together with interest and penalties, persons
12 required to submit reports and payment of the tax shall, at the
13 time of application for a license under section 53-124, enter
14 into a surety bond with corporate surety, both the bond form and
15 surety to be approved by the commission. Subject to the limitations
16 specified in this subdivision, the amount of the bond required of
17 any taxpayer shall be fixed by the commission and may be increased
18 or decreased by the commission at any time. In fixing the amount of
19 the bond, the commission shall require a bond equal to the amount
20 of the taxpayer's estimated maximum monthly excise tax ascertained
21 in a manner as determined by the commission. Nothing in this
22 section shall prevent or prohibit the commission from accepting
23 and approving bonds which run for a term longer than the license
24 period. The amount of a bond required of any one taxpayer shall not
25 be less than ~~one~~ five thousand dollars. The bonds required by this

1 section shall be filed with the commission; and

2 (7) When a manufacturer or wholesaler sells and delivers
3 alcoholic liquor upon which the tax has been paid to any
4 instrumentality of the armed forces of the United States engaged
5 in resale activities as provided in section 53-160.01, the
6 manufacturer or wholesaler shall be entitled to a credit in
7 the amount of the tax paid in the event no tax is due on such
8 alcoholic liquor as provided in such section. The amount of the
9 credit, if any, shall be deducted from the tax due on the following
10 monthly report and subsequent reports until liquidated.

11 Sec. 5. Section 53-187, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 53-187 (1) No nonbeverage user shall sell, give away,
14 or otherwise dispose of any alcoholic liquor, purchased under, a
15 his license as such nonbeverage user license, in any form fit for
16 beverage purposes.

17 (2) Any nonbeverage user who shall violate the provisions
18 of violates this section shall (a) pay to the commission, for the
19 use of the General Fund, the sum of two dollars and ten cents
20 for each gallon of alcoholic liquor so diverted, and in addition
21 thereto shall for the use of the Alcohol-Related Crash Fund, the
22 sum of thirteen dollars and twenty-three cents for each gallon of
23 alcoholic liquor so diverted, and (b) be subject to the penalties
24 provided in section 53-1,100.

25 Sec. 6. Section 53-199, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 53-199 The Attorney General, any one of the assistant
3 attorneys general assigned to the commission when directed by
4 the commission, or the county attorney in the county where such
5 nuisance exists or is kept or maintained may maintain an action
6 by injunction, in the name of the State of Nebraska, to abate and
7 temporarily or permanently to enjoin such nuisance. The court shall
8 have the right to make temporary and final orders as in other
9 injunction proceedings. The plaintiff shall not be required to give
10 bond in such action, and upon final judgment against the defendant,
11 such court shall also order that such room, house, building,
12 structure, boat, or place of any kind shall be closed and padlocked
13 for a period of not less than three months nor more than two years
14 and until the owner, lessee, tenant, or occupant thereof gives
15 bond with sufficient surety to be approved by the court making the
16 order, in the penal sum of not less than ~~one~~ five thousand dollars,
17 payable to the State of Nebraska and conditioned that no alcoholic
18 liquors will thereafter be manufactured, possessed, sold, bartered,
19 given away, furnished, or otherwise disposed of thereon or therein,
20 or kept thereon or therein with intent to sell, barter, give away,
21 or otherwise dispose of the same, contrary to the Nebraska Liquor
22 Control Act, and that he or she and his or her surety will pay
23 all fines and costs assessed for any violation of the act. If
24 any condition of such bond is violated, the whole amount may be
25 recovered as a penalty for the use of the State of Nebraska; and

1 in such suit on the bond, both the principal and surety shall be
2 joined as party defendants, and satisfaction may be had from either
3 of them. In such action a notice to nonresident defendants may be
4 given by publication as authorized by law under the code of civil
5 procedure, or upon their agents for service in this state, if any.

6 Sec. 7. Sections 7 to 35 of this act shall be known and
7 may be cited as the Alcohol-Related Crash Reparations Act.

8 Sec. 8. For purposes of the Alcohol-Related Crash
9 Reparations Act:

10 (1) Alcohol-related crash means a collision which occurs
11 between two motor vehicles or between a motor vehicle and a person
12 or property and which results in a conviction of the driver who is
13 at fault for the collision for operating a motor vehicle under the
14 influence of alcohol;

15 (2) Commission means the Nebraska Commission on Law
16 Enforcement and Criminal Justice;

17 (3) Committee means the Crime Victim's Reparations
18 Committee;

19 (4) Dependent means a relative of a deceased person who
20 was dependent upon the person's income at the time of death,
21 including a child of a person born after the person's death;

22 (5) Personal injury means actual bodily harm; and

23 (6) Relative means spouse, parent, grandparent,
24 stepparent, natural born child, stepchild, adopted child,
25 grandchild, brother, sister, half brother, half sister, or spouse's

1 parent.

2 Sec. 9. It is the intent of the Legislature that the
3 Alcohol-Related Crash Reparations Act be construed as providing an
4 alternative method of compensation for loss suffered as a result of
5 death, personal injury, or property damage incurred by any person
6 affected by an alcohol-related crash subject to the limitations of
7 the act.

8 Sec. 10. Any person who may be eligible for compensation
9 under the Alcohol-Related Crash Reparations Act may make
10 application to the committee on forms provided by the committee.
11 If the person entitled to make application is a minor or mentally
12 incompetent, the application may be made on his or her behalf by
13 his or her parent, guardian, or any other individual authorized
14 to administer his or her estate. Residents and nonresidents of
15 Nebraska who are eligible for compensation for alcohol-related
16 crashes in Nebraska shall be treated similarly in determining
17 compensation awards under the act. A resident of Nebraska who
18 suffers loss as a result of an alcohol-related crash in another
19 state shall be eligible for compensation if (1) the loss would be
20 compensable had it occurred in Nebraska and (2) the crash occurred
21 in a state which does not have a compensation program for which
22 the person is eligible.

23 Sec. 11. In order to be eligible for compensation under
24 the Alcohol-Related Crash Reparations Act, the applicant shall,
25 prior to any hearing on an application, submit:

1 (1) Available reports from any physician or surgeon who
2 has treated or examined the applicant in relation to any injury for
3 which compensation is claimed. If, in the opinion of the hearing
4 officer or the committee, reports on the previous medical history
5 of the applicant, a report on the examination of the applicant, or
6 a report on the cause of death of the applicant by an impartial
7 medical expert would be of material aid to its determination,
8 the hearing officer or the committee shall order the reports and
9 examination;

10 (2) Available reports from the applicant's insurance
11 company regarding any property damage incurred as a result of
12 the crash. If, in the opinion of the hearing officer or the
13 committee, an assessment by an impartial insurance company would be
14 of material aid to its determination, the hearing officer or the
15 committee shall order the assessment; and

16 (3) Available reports from the applicant's experts
17 regarding any other loss incurred as a result of the crash,
18 including time lost, rehabilitation, and disability, for which
19 compensation is claimed. If, in the opinion of the hearing officer
20 or the committee, an assessment by an impartial expert would be
21 of material aid to its determination, the hearing officer or the
22 committee shall order the assessment.

23 Sec. 12. (1) A hearing officer shall consider and
24 rule upon any application made under the Alcohol-Related Crash
25 Reparations Act within one hundred eighty days after receipt of all

1 required information related to the crash.

2 (2) If the hearing officer denies an award of
3 compensation or awards an amount less than or equal to the amount
4 requested by the applicant, the hearing officer shall furnish the
5 applicant with a written statement of the reason for the ruling.
6 The applicant may request a hearing on his or her application
7 within thirty days after receipt of the statement. If the applicant
8 requests a hearing, the hearing officer shall furnish the committee
9 with his or her findings of fact and conclusions of law together
10 with the reasons for the findings and conclusions. The committee
11 shall specify a time and place for a hearing and shall give written
12 notice to the applicant. The hearing shall be held within one
13 hundred twenty days after receipt of the request for a hearing. If
14 no request for a hearing is made within the specified time, the
15 decision of the hearing officer shall be final.

16 (3) If the hearing officer awards an amount to the
17 applicant greater than the amount requested by the applicant,
18 the hearing officer shall furnish the committee with his or her
19 findings of fact and conclusions of law together with the reasons
20 for granting the applicant more than he or she requested. The
21 committee shall review the decision of the hearing officer taking
22 into consideration the availability of funds appropriated for the
23 purposes of the act and other standards formulated pursuant to
24 section 17 of this act. The committee may approve the same amount
25 awarded by the hearing officer, may increase or decrease the

1 amount, or may deny an award of compensation.

2 Sec. 13. (1) The committee or a hearing officer may
3 hold hearings, sit and act at the times and places and take
4 the testimony that the committee or the hearing officer considers
5 advisable, and administer oaths or affirmations to witnesses. The
6 hearing officer or the committee shall have full powers by subpoena
7 to compel the appearance of witnesses and the production of any
8 relevant evidence, but no subpoena shall be issued unless signed
9 by a member of the committee. Application to a court for aid in
10 enforcing the subpoena may be made in the name of the committee by
11 any committee member.

12 (2) The applicant and any other person having a
13 substantial interest in the proceeding may appear and be heard,
14 produce evidence, and cross-examine witnesses in person or by an
15 attorney. The committee or a hearing officer may hear other persons
16 who in its or his or her judgment may have relevant evidence to
17 submit.

18 (3) The committee or a hearing officer shall have access
19 to criminal history record information, as defined in section
20 29-3506, and investigative information of the law enforcement
21 agency which handled the crash which is the basis for the
22 application for compensation.

23 Sec. 14. If a person has been convicted of an offense
24 on which a claim under the Alcohol-Related Crash Reparations Act
25 is based, proof of that conviction shall be taken as conclusive

1 evidence that the offense occurred and that such person committed
2 the offense, unless an appeal or a proceeding with regard to it is
3 pending.

4 Sec. 15. The hearing officer or the committee may,
5 as part of an order entered under the Alcohol-Related Crash
6 Reparations Act, determine and allow reasonable attorney's fees not
7 to exceed five percent of any compensation awarded. If the decision
8 of a hearing officer or the committee is appealed, the court shall
9 determine reasonable attorney's fees.

10 Sec. 16. The committee may, subject to the approval
11 of the commission, adopt and promulgate rules and regulations
12 prescribing the procedures to be followed in the filing of
13 applications and proceedings under the Alcohol-Related Crash
14 Reparations Act and any other matters the committee considers
15 appropriate, including special circumstances, such as when expenses
16 of job retraining or similar employment-related rehabilitative
17 services are involved, under which an award under the act may
18 exceed twenty thousand dollars. The committee shall make available
19 all forms and educational materials necessary to promote the
20 existence of the programs to persons throughout the state.

21 Sec. 17. For purposes of determining the amount of
22 compensation payable under the Alcohol-Related Crash Reparations
23 Act, the committee shall formulate standards for uniform
24 application of the act and take into consideration rates and
25 amounts of compensation payable for property damage, lost time,

1 injuries, rehabilitation, disability, and death under other laws
2 of this state and of the United States and the availability of
3 funds appropriated for the purposes of the act. Applicants subject
4 to federal jurisdiction shall be awarded compensation on the same
5 basis as all other applicants.

6 Sec. 18. The committee or a hearing officer may order the
7 payment of compensation:

8 (1) To or for the benefit of the person who suffered the
9 loss;

10 (2) In the case of personal injury or death, to a person
11 responsible for the maintenance of the injured or deceased person
12 who has suffered pecuniary loss or incurred expenses as a result of
13 the injury; or

14 (3) In the case of a death, to or for the benefit of any
15 one or more of the dependents of the deceased person.

16 Sec. 19. (1) In determining whether to make an order
17 for compensation under the Alcohol-Related Crash Reparations Act,
18 the committee or hearing officer shall consider all circumstances
19 determined to be relevant, including, but not limited to,
20 provocation, consent, or any other behavior of the applicant which
21 directly or indirectly contributed to his or her loss.

22 (2) Upon application made by an appropriate prosecuting
23 authority, the committee may suspend proceedings under the
24 Alcohol-Related Crash Reparations Act for such period as it
25 considers appropriate on the ground that a prosecution for an

1 offense arising out of the crash which caused the injury or death
2 involved in the application has been commenced or is imminent.

3 Sec. 20. (1) The committee or a hearing officer may
4 award compensation for losses and expenses allowable under the
5 Alcohol-Related Crash Reparations Act for which the applicant is
6 not compensated by the person involved in the alcohol-related
7 crash who is at fault and who is convicted of operating a motor
8 vehicle under the influence of alcohol, by any person including an
9 insurance company on behalf of the convicted person, by the United
10 States, by a state or any of its subdivisions or agencies, or by
11 a private source for loss compensable under the act. Any insurance
12 coverage for losses and expenses allowable under the act held by
13 the person who is at fault and who is convicted of operating a
14 motor vehicle under the influence of alcohol shall be exhausted
15 prior to being eligible for an award for compensation under the
16 act. Life insurance proceeds and social security payments shall not
17 be treated as forms of such collateral compensation.

18 (2) If compensation is awarded under the act and the
19 person receiving it also receives a collateral sum under the act
20 which has not been deducted from it, he or she shall refund to the
21 committee either the amount of the collateral sum or the amount of
22 compensation paid to him or her under the act, whichever is less.

23 Sec. 21. The committee or hearing officer may order
24 the payment of compensation for any loss which resulted from
25 an alcohol-related crash subject to the restrictions of the

1 Alcohol-Related Crash Reparations Act.

2 Sec. 22. The committee or hearing officer may order the
3 payment of compensation to persons suffering loss as a result of an
4 alcohol-related crash for:

5 (1) Replacement value or repair of any property damaged
6 as a result of the crash;

7 (2) Loss of wages and future earning capacity as a
8 result of total or partial incapacity of the person who suffered
9 the loss and reasonable expenses of job retraining or similar
10 employment-oriented rehabilitative services for such person;

11 (3) Pecuniary loss to the dependents of a person who died
12 as a result of the alcohol-related crash;

13 (4) Funeral and burial expenses actually and reasonably
14 incurred as a result of the death of a person who died as a result
15 of the alcohol-related crash; and

16 (5) Any other loss resulting from the crash which the
17 committee determines to be reasonable.

18 Sec. 23. (1) Prior to the hearing officer taking action
19 on an application, the applicant may request that a hearing officer
20 make an emergency award of compensation to the applicant. If it
21 appears to the hearing officer that the claim is one for which
22 compensation is probable and undue hardship will result to the
23 applicant if immediate payment is not made, the hearing officer may
24 make an emergency award of compensation to the applicant pending a
25 final decision in the case, except that:

1 (a) The amount of the emergency compensation shall not
2 exceed two thousand dollars;

3 (b) The amount of the emergency compensation shall be
4 deducted from the final compensation made to the applicant; and

5 (c) The excess amount of the emergency compensation over
6 the final amount shall be repaid by the applicant to the committee.

7 (2) If the hearing officer refuses to make an emergency
8 award of compensation to the applicant, the applicant may request
9 an emergency hearing before the committee which may be conducted
10 by means of teleconference. The committee shall forthwith specify
11 a time and place for an emergency hearing and shall give written
12 notice to the applicant. If it appears to the committee that
13 the claim is one for which compensation is probable and undue
14 hardship will result to the applicant if immediate payment is not
15 made, the committee may make an emergency award of compensation
16 to the applicant pending a final decision in the case, subject to
17 the conditions and limitations stated in subsection (1) of this
18 section.

19 Sec. 24. No order for the payment of compensation shall
20 be entered under the Alcohol-Related Crash Reparations Act unless
21 the application has been submitted to the committee within two
22 years after the date of the crash and the crash was reported to the
23 police within three days of its occurrence or, if the crash could
24 not reasonably have been reported within that period, within three
25 days of the time when a report could reasonably have been made.

1 Sec. 25. No compensation shall be awarded for death
2 benefits under the Alcohol-Related Crash Reparations Act in an
3 amount in excess of five hundred thousand dollars for each
4 applicant. No compensation shall be awarded for death benefits
5 under the act if the applicant receives death benefits under an
6 automobile insurance policy.

7 Sec. 26. Each award shall be paid in installments unless
8 the hearing officer or committee decides otherwise.

9 Sec. 27. No order for payment of compensation under
10 the Alcohol-Related Crash Reparations Act shall be made for loss
11 resulting from alcohol-related crashes occurring prior to July 1,
12 2007.

13 Sec. 28. When an order is made for the payment of
14 compensation for loss under the Alcohol-Related Crash Reparations
15 Act, the committee shall be subrogated to any cause of action
16 the applicant might have against the person responsible for the
17 loss and shall be entitled to bring an action against such person
18 for the amount of the damages sustained by the applicant. If an
19 amount greater than that paid under the order is recovered and
20 collected in the action, the committee shall pay the balance to the
21 applicant.

22 Sec. 29. Any person who knowingly makes a false claim
23 under the Alcohol-Related Crash Reparations Act shall be guilty of
24 a Class I misdemeanor and shall forfeit any benefit received and
25 shall repay the state for any payment of compensation made under

1 the act.

2 Sec. 30. The rights to compensation created under the
3 Alcohol-Related Crash Reparations Act are personal and shall not
4 survive the death of a person entitled to them, except that if the
5 death occurs after an application for compensation has been filed
6 with the committee, then the proceeding shall not abate but may be
7 continued by the legal representative of the decedent's estate.

8 Sec. 31. All determinations, decisions, and awards made
9 by the committee or any hearing officer under the Alcohol-Related
10 Crash Reparations Act may be appealed. The appeal shall be in
11 accordance with the Administrative Procedure Act.

12 Sec. 32. The committee shall prepare and submit to
13 the commission a biennial report of its activities under the
14 Alcohol-Related Crash Reparations Act, including the name of each
15 applicant, a brief description of the facts in each case, and the
16 amount of compensation awarded. Such report shall be submitted to
17 the Governor and Clerk of the Legislature.

18 Sec. 33. Any award to a claimant and any judgment in
19 favor of a claimant under the Alcohol-Related Crash Reparations
20 Act shall be certified by the committee to the Director of
21 Administrative Services who shall promptly issue a warrant for
22 payment of such award or judgment out of the Alcohol-Related Crash
23 Fund if sufficient money is available in such fund.

24 Sec. 34. The Alcohol-Related Crash Fund is created. The
25 costs of administering the Alcohol-Related Crash Reparations Act

1 and awards or judgments under section 17 of this act shall be
2 paid from the fund. The fund shall include alcohol tax proceeds
3 designated under the Nebraska Liquor Control Act. The fund shall
4 be in such amount as the Legislature determines to be reasonably
5 sufficient to meet anticipated claims. When the amount in the
6 fund is not sufficient to pay any projected or existing awards or
7 judgments under section 17 of this act and costs of administering
8 the Alcohol-Related Crash Reparations Act, the committee shall
9 limit further payments on a pro rata basis until a reserve is
10 restored in the fund at a level considered appropriate by the
11 committee. Any money in the fund available for investment shall be
12 invested by the state investment officer pursuant to the Nebraska
13 Capital Expansion Act and the Nebraska State Funds Investment Act.

14 Sec. 35. Nothing in the Alcohol-Related Crash Reparations
15 Act requiring any action by the state or a political subdivision
16 is deemed to create any liability if the state or political
17 subdivision fails to act as required under the act. Such failure
18 to take any action shall not invalidate any legal process or
19 proceeding.

20 Sec. 36. Section 81-1806, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 81-1806 The executive director may serve as a hearing
23 officer pursuant to this section and in addition the committee,
24 with the approval of the commission, shall appoint one or more
25 additional hearing officers, who shall be licensed to practice law

1 in the state, to conduct hearings, take testimony in proceedings
2 under the Alcohol-Related Crash Reparations Act or the Nebraska
3 Crime Victim's Reparations Act, and make determinations of any
4 matter subject to ~~such~~ either act.

5 Sec. 37. This act becomes operative on January 1, 2007.

6 Sec. 38. Original sections 53-160, 53-161, 53-162,
7 53-164.01, 53-187, 53-199, and 81-1806, Reissue Revised Statutes
8 of Nebraska, are repealed.